

SENATE BILL NO. 399

INTRODUCED BY J. BALYEAT

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT THE OPEN MEETING LAW APPLIES TO MEETINGS OF THE MONTANA SUPREME COURT; AND AMENDING SECTIONS 2-3-203, 2-3-212, 2-3-213, AND 2-7-509, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 2-3-203, MCA, is amended to read:

"2-3-203. Meetings of public agencies and certain associations of public agencies to be open to public -- exceptions. (1) ~~All~~ Except as provided in this section, the following meetings must be open to the public:

(a) all meetings of:

(i) public or governmental bodies, boards, bureaus, commissions, or agencies of the state, including the supreme court; or

(ii) any political subdivision of the state; or

(iii) organizations or agencies supported in whole or in part by public funds or expending public funds; must be open to the public. and

~~(2) All (b) all~~ meetings of associations that are composed of public or governmental bodies referred to in subsection ~~(4)~~ (1)(a) and that regulate the rights, duties, or privileges of any individual ~~must be open to the public.~~

~~(3) Provided, however, the (2) The~~ presiding officer of ~~any~~ a meeting may close the meeting during the time the discussion relates to a matter of individual privacy ~~and then if and only if~~ if the presiding officer determines that the demands of individual privacy clearly exceed the merits of public disclosure. The right of individual privacy may be waived by the individual about whom the discussion pertains, and, in that event, the meeting must be open.

~~(4) (3) (a) However, except~~ Except as provided in subsection ~~(4)(b)~~ (3)(b), a meeting may be closed to discuss a strategy to be followed with respect to litigation when an open meeting would have a detrimental effect on the litigating position of the public agency.

(b) A meeting may not be closed to discuss strategy to be followed in litigation in which the only parties are public bodies or associations described in ~~subsections (1) and (2)~~ subsection (1).

~~(5) (4)~~ Any A committee or subcommittee appointed by a public body or an association described in subsection ~~(2)~~ (1)(b) for the purpose of conducting business ~~which~~ that is within the jurisdiction of that agency is subject to the requirements of this section."

Section 2. Section 2-3-212, MCA, is amended to read:

"2-3-212. Minutes of meetings -- public inspection. (1) Appropriate minutes of all meetings required by 2-3-203 to be open ~~shall~~ must be kept and ~~shall be~~ made available for inspection by the public.

(2) ~~Such~~ The minutes ~~shall~~ must include without limitation:

(a) the date, time, and place of the meeting;

(b) a list of the individual members of the public body, agency, or organization who are in attendance;

(c) the substance of all matters proposed, discussed, or decided; and

(d) at the request of any member, a record by individual members of any votes taken.

(3) The minutes of a meeting of the supreme court need not include internal working papers of the court that the court does not choose to make public."

Section 3. Section 2-3-213, MCA, is amended to read:

"2-3-213. Voidability. ~~Any~~ A decision made in violation of 2-3-203, ~~except a decision of the supreme court,~~ may be declared void by a district court having jurisdiction. A decision of the supreme court made in violation of 2-3-203 may be declared void by the supreme court. A suit to void any ~~such~~ decision must be commenced within 30 days of the decision."

Section 4. Section 2-7-509, MCA, is amended to read:

"2-7-509. Audits of school-related organizations -- costs -- criteria. (1) The legislative auditor may conduct or have conducted an audit of the records of organizations referred to in ~~2-3-203(2)~~ 2-3-203(1)(b).

(2) Before public funds are transferred to the organization, a member shall obtain the organization's written consent to:

(a) the audit provided for in subsection (1); and

(b) pay the costs of the audit.

(3) An audit of an organization performed under this section must determine if:

(a) the organization is carrying out only those activities or programs authorized by state law and its articles of incorporation, bylaws, and policies;

(b) expenditures are made in furtherance of authorized activities in accordance with applicable laws and its articles of incorporation, bylaws, and policies;

(c) the organization properly collects and accounts for all revenues and receipts arising from its activities in accordance with generally accepted accounting principles;

(d) the assets of the organization or the assets in its custody are adequately safeguarded and are controlled and used in an efficient manner; and

(e) reports and financial statements fully disclose the nature and scope of the activities conducted and provide a proper basis for evaluating the operations of the organization."

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